

AMENDED IN SENATE JULY 16, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 35

Introduced by Assembly Member Wiggins

December 2, 2002

An act to amend ~~Section 65400~~ *Sections 65352 and 65400* of, and to repeal Section 65307 of, the Government Code, relating to local planning.

LEGISLATIVE COUNSEL'S DIGEST

AB 35, as amended, Wiggins. Local planning agencies: duties.

(1) The Planning and Zoning Law requires the planning agency, after a legislative body has adopted all or part of a general plan, to provide an annual report, on or before October 1 of each year, to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development on the status of the general plan and progress in meeting the community's share of regional housing needs. The report is required to be prepared through forms and definitions adopted by the Department of Housing and Community Development.

The bill would require the report to include the degree to which the approved general plan complies with specified guidelines for the preparation of the mandatory elements of the general plan and the date of the last revision to the general plan. By imposing new duties on planning agencies, the bill would create a state-mandated local program.

(2) *The Planning and Zoning Law also requires the planning agency prior to action by a legislative body of a city or county to adopt or*

substantially amend a general plan, to refer the proposed action to specified entities, including, among other entities, any city or county within or abutting the area covered by the proposal and any special district that may be significantly affected by the proposed action, as determined by the planning agency.

This bill would create an exception to the referral specified above if the planning agency has consulted with the city, county, or special district pursuant to other specified provisions of law.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65307 of the Government Code is
2 repealed.

3 SEC. 2. *Section 65352 of the Government Code is amended*
4 *to read:*

5 65352. (a) Prior to action by a legislative body to adopt or
6 substantially amend a general plan, the planning agency shall refer
7 the proposed action to all of the following entities:

8 (1) Any city or county, within or abutting the area covered by
9 the proposal, and any special district that may be significantly
10 affected by the proposed action, as determined by the planning
11 agency, *unless the planning agency has consulted with the city,*
12 *county, or special district pursuant to Section 21153 of the Public*
13 *Resources Code.*

14 (2) Any elementary, high school, or unified school district
15 within the area covered by the proposed action.

16 (3) The local agency formation commission.

17 (4) Any ~~areawide~~ *area wide* planning agency whose operations
18 may be significantly affected by the proposed action, as
19 determined by the planning agency.

1 (5) Any federal agency if its operations or lands within its
2 jurisdiction may be significantly affected by the proposed action,
3 as determined by the planning agency.

4 (6) Any public water system, as defined in Section 116275 of
5 the Health and Safety Code, with 3,000 or more service
6 connections, that serves water to customers within the area
7 covered by the proposal. The public water system shall have at
8 least 45 days to comment on the proposed plan, in accordance with
9 subdivision (b), and to provide the planning agency with the
10 information set forth in Section 65352.5.

11 (7) The Bay Area Air Quality Management District for a
12 proposed action within the boundaries of the district.

13 (b) Each entity receiving a proposed general plan or
14 amendment of a general plan pursuant to this section shall have 45
15 days from the date the referring agency mails it or delivers it in
16 which to comment unless a longer period is specified by the
17 planning agency.

18 (c) (1) This section is directory, not mandatory, and the failure
19 to refer a proposed action to the other entities specified in this
20 section does not affect the validity of the action, if adopted.

21 (2) To the extent that the requirements of this section conflict
22 with the requirements of Chapter 4.4 (commencing with Section
23 65919), the requirements of Chapter 4.4 shall prevail.

24 *SEC. 3.* Section 65400 of the Government Code is amended
25 to read:

26 65400. After the legislative body has adopted all or part of a
27 general plan, the planning agency shall do both of the following:

28 (a) Investigate and make recommendations to the legislative
29 body regarding reasonable and practical means for implementing
30 the general plan or element of the general plan, so that it will serve
31 as an effective guide for orderly growth and development,
32 preservation and conservation of open-space land and natural
33 resources, and the efficient expenditure of public funds relating to
34 the subjects addressed in the general plan.

35 (b) Provide by October 1 of each year an annual report to the
36 legislative body, the Office of Planning and Research, and the
37 Department of Housing and Community Development that
38 includes all of the following:

39 (1) The status of the plan and progress in its implementation.

(2) The progress in meeting its share of regional housing needs determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of forms and definitions adopted by the Department of Housing and Community Development pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2).

~~(3) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.~~

~~SEC. 3.—~~

(3) The degree to which the approved general plan was developed based on the guidelines developed and adopted pursuant to Section 65040.2.

SEC. 4. It is the intent of the Legislature that the amendments to Section 65400 of the Government Code made by this act correct a drafting error made in the amendments to that section in Chapter 1235 of the Statutes of 1994 (Assembly Bill 51).

~~SEC. 4.—~~

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act provides for offsetting savings to local agencies or school districts that result in no net costs to the local agencies or school districts, within the meaning of Section 17556 of the Government Code.